

BOARD OF CODE STANDARDS AND APPEALS MINUTES

March 3, 2008

Members: Francisco Banuelos, Randy Coonrod, Randy Harder, Richard Hartwell, Bernie Hentzen, Ed Murabito, Warren Willenberg, John Youle

Present: Banuelos, Coonrod, Harder, Hartwell, Hentzen, Murabito, Willenberg

Staff Members Present: Kurt Schroeder, Deb Legge, Penny Bohannon, Elaine Hammons

The regular meeting of the Board of Code Standards and Appeals was called to order by Chairman Murabito on Monday, March 3, 2008, at 1:35 p.m. in the Metropolitan Area Planning Department Planning Commission Room, 10th floor, City Hall, 455 N. Main, Wichita, Kansas.

1. Approval of the Minutes of the February 4, 2008, meeting.

A motion was made by Board Member Coonrod to approve the February minutes as submitted. Board Member Banuelos seconded the motion. The motion was unanimously approved. (Board Member Hentzen was not present for this vote.)

2. Approval of the March 2008 license examination applications.

<u>Name</u>	<u>Class</u>	<u>Date</u>
Christopher Michael Lent	Roofing/Siding	March 2008
Edward Dean Dumas	Roofing/Siding	March 2008
Bradley D. Newman	Swimming Pool	March 2008

Board Member Coonrod made a motion to approve the March 2008 contractor license examination applications. Board Member Hartwell seconded the motion. The motion was approved. (Board Member Hentzen was not present for this vote.)

Chairman Murabito requested that the Board Members and City staff introduce themselves to the citizens in attendance.

3. Condemnation Hearings

Review Cases:

1. 1152 North Indiana

Mr. Juan Perez, owner of the property, was present.

This property was first before the Board in December of 2007. At that hearing, the Board approved a motion to allow ninety days for the exterior of the property to be brought into compliance. The taxes are current on the property; there is a small amount of construction debris on the site; at the last inspection, the owner was working on the roof decking, preparing to reroof the structure; the required permits have been obtained.

Mr. Perez notified the Board that the roof is complete and considerable progress has been made on the other repairs. The siding has been completed; however, the painting and window repairs have been delayed due to an injury that Mr. Perez sustained while working on the property.

Ms. Legge conveyed that the staff recommendation was to return the property to the regular code enforcement.

Board Member Harder made a motion to return the property to regular code enforcement. Board Member Willenberg seconded the motion. The motion carried.

2. 2327 East Random

Brandon Hafer, the brother of the owner, was present to represent this property.

This property was first reviewed by the Board on December 3, 2007. The Board approved a motion to allow ninety days for the exterior of the property to be repaired, and the delinquent taxes to be paid, maintaining the property in a clean and secure condition in the meantime.

The 2007 taxes are still delinquent in the amount of \$455.78, which includes a special assessment for weed mowing in 2007. There is a small amount of tree debris on the site; a new roof has been installed; some of the windows have been replaced; the damaged portions of the east, west and south foundation have been dug out. The structure is secure.

Mr. Hafer provided current photos of the property for the Board's perusal, along with a letter from Mr. Eddie Hafer, the owner.

Mr. Brandon Hafer addressed the Board regarding his brother's plan of action for the property. Mr. Hafer told the Board that recent inclement weather had caused a delay in having the foundation repaired. A contractor has been obtained and has been working on the foundation. The required permit has been issued. The siding should be completed by the end of the month. A new garage door has been installed, and a new electrical service has been completed. Mr. Hafer informed the Board that the 2007 delinquent taxes were paid the week prior to the March hearing.

Board Member Coonrod made a motion to allow an additional thirty days to complete the remaining exterior repairs, maintaining the property in a clean and secure condition in the interim. Board Member Harder seconded the motion. The motion passed without opposition.

3. 411 West University

There was no representative present at the hearing.

At the February 2008 hearing, Hope Dubetsky was present as the representative for this property. At that time the Board approved a motion to allow thirty days for Ms. Dubetsky to formulate a plan for the repairs to the structure and report back to the Board.

Although repeated attempts were made to contact Ms. Dubetsky by phone and mail, Central Inspection staff was unable to reach her. There has been no further contact from Ms. Dubetsky.

The 2003, 2004, 2005, 2006 and 2007 taxes are delinquent in the amount of \$2,217.82.

Board Member Harder made a motion to refer the property to the City Council with a recommendation of demolition, with ten days to begin the removal of the structure and ten days to complete the demolition. Board Member Coonrod seconded the motion. The motion was approved.

New Cases:

1. 927 North Wabash

Ivan Ray attended the hearing as a representative of this property.

This is a one-story frame dwelling about 24 X 47 feet in size. Vacant for at least fourteen years, it has cracking concrete block basement walls; rotted and missing metal and wood lap siding; the composition roof is sagging and badly worn with missing shingles; there are rotted wood trim and framing members; the 20 X 10 foot accessory structure is deteriorated.

The case on this property was begun on August 28, 1991. Numerous Notices of Improvement and Notices of Violation have been issued. A Pre-condemnation letter was issued on September 4, 2007. The taxes are current, and there are no cost assessments against the property. There are some brush and debris on the premises; there is an inoperable vehicle on the property; there is an active neglected building case on the structure. No repairs have been made; however, the building is secure.

Mr. Ray said that he had done some work on the property. Although there are some missing shingles, Mr. Ray stated that the property was not deteriorated. He reported that he planned to remove the accessory structure within the next forty days. Mr. Ray told the Board that he needed to know what was required in order to bring the exterior into code compliance. Chairman Murabito inquired whether Mr. Ray had met with an inspector on site to go over the necessary repairs. Mr. Ray replied that he had met an inspector at the property, but the inspector had only listed the interior violations. Chairman Murabito explained that the Board was only concerned with the exterior violations. Ms. Legge interjected that she believed an inspector had met on site with Mr. Ray to explain the required exterior repairs. Mr. Ray said that the only thing the inspector had relayed to him was the violations on the interior of the structure. Ms. Legge assured Mr. Ray that it would not be a problem to have the inspector meet with him again on the site to clear up any confusion on what exterior repairs were needed. Board Member Hentzen requested that the Board be provided a copy of the noted violations as well.

Board Member Coonrod made a motion to allow sixty days to complete all exterior requirements, maintaining the site in a clean and secure condition. Board Member Hentzen seconded the motion. The motion was unanimously approved.

2. 1009 North Wabash

Ivan Ray was present as the representative for this property.

A one-story frame dwelling, this structure is approximately 32 X 26 feet in size; this structure has been vacant for at least five years. The structure has cracking, shifting block basement walls; missing asbestos siding; sagging and badly worn composition roof; the front and rear porches are deteriorated; the 25 X 34 foot accessory structure has a collapsing roof and a shifting foundation.

The active file was initiated on this property on December 9, 2002. Several Notices of Improvement and Notices of Violation have been issued. The taxes are current, and there are no special cost assessments levied against the property. There is some brush on the site. No repairs have been made to the property; the structure is secure.

Board Member Hartwell inquired whether Mr. Ray planned to demolish the accessory structure or if he planned to rebuild it. Mr. Ray said he intended to tear off the garage roof and repair it. Board Member Coonrod asked how long Mr. Ray expected it to take before that was accomplished. Mr. Ray responded that it would probably take ninety days because he also had the property at 927 N. Wabash to repair.

Before making a decision on the time to be allotted for repairs, the Board requested to hear the information on the third property that Mr. Ray represented.

3. 1312 North Wabash

Ivan Ray represented this property.

Vacant for at least fourteen years, this one-story frame dwelling is approximately 70 X 25 feet in size. The block foundation is cracking; the concrete block walls are also shifting and cracking; the front and rear porches are also cracking and shifting; there are rotted and missing wood trim and framing members.

On November 8, 1993, the active case was started on this property. Since that time, several Notices of Improvement and Notices of Violation have been issued. The Pre-condemnation Letter was issued in

September 2007. The taxes are current, and there are no cost assessments against the property. The premise is maintained and the structure is secure. There is an active neglected building case on this structure. No repairs have been made.

Chairman Murabito asked Mr. Ray when he purchased the property. Mr. Ray said that he purchased it approximately eight years ago. Board Member Harder asked how long Mr. Ray would need to make the required repairs on this particular property. Mr. Ray said that it would be the last part of summer or early fall before he could get the work completed. He explained that his uncle was raising funds toward the cost of repairs on the structure. Mr. Ray further expounded that he was attempting to get the other properties (927 N. Wabash and 1009 North Wabash) into compliance before he would have the opportunity to begin making repairs on 1312 N. Wabash.

Board Member Hartwell suggested that Mr. Ray remove the dilapidated accessory structures at 927 N. Wabash and 1009 N. Wabash, and then work on the remainder of the repairs on the three properties.

Board Member Hartwell made a motion to allow sixty days for the exterior repairs to be completed on 1009 N. Wabash, and ninety days to complete the exterior repairs on 1312 N. Wabash, maintaining the properties in a clean and secure condition in the interim. Board Member Harder seconded the motion. The motion was approved.

Chairman Murabito cautioned Mr. Ray that immediate action would have to be taken on his part in order to get the properties off of the list for condemnation hearing.

4. 1237 North Mathewson

There was no one present as a representative for this property.

This one-story frame dwelling is approximately 25 X 20 feet in size. It is vacant and open. It has a cracking concrete foundation.

Board Member Banuelos made a motion to send the property before the City Council, recommending condemnation, with ten days to begin the demolition and ten days to complete the removal of the structure. Board Member Hartwell seconded the motion. The motion carried unanimously.

5. 708 North Minneapolis

There was no representative for this property in attendance.

This is a one-story frame dwelling, 24 X 54 feet in size, has been vacant for at least two years. The 2006 and 2007 taxes are delinquent in the amount of \$717.62, which includes a 2007 special assessment for board-up. There is a 2008 special assessment for board-up in the amount of \$246.51.

Board Member Harder made a motion to refer the property to the City Council with a recommendation of condemnation, with ten days to initiate the razing of the structure and ten days to finish the demolition. Board Member Coonrod seconded the motion. The motion was approved.

6. 731 North Minneapolis

No one was present to represent this property.

Vacant for at least six years, this one-story frame dwelling is 54 X 30 feet in size. This structure has a cracking concrete foundation; there is rotted and missing masonite and asbestos siding; the front and rear porches are dilapidated.

Board Member Harder made a motion to refer the property to the City Council for condemnation action, with ten days to begin wrecking the structure, and ten days to finish its removal. Board Member Hentzen seconded the motion. The motion carried.

7. 1132 North Ash

Edmond Brown, the owner of the property, was present at the hearing.

This is a one-story frame dwelling, 24 X 50 feet in size. Vacant for approximately six months, it has a shifting block foundation; missing asbestos siding; sagging and dilapidated composition roof with missing shingles; the front porch is collapsing; there are rotted and missing wood trim and framing members; and the 20 X 16 foot accessory structure is deteriorating.

The active case was started on this property in August of 2007. Several notices have been issued on this property. The taxes are current, and there are no cost assessments levied against this property. No repairs have been made; however, the premise condition is fair and the structure is secure.

Addressing the Board, Mr. Brown explained that he had sold the property seven years ago. He said that the buyers had vacated the structure the previous weekend. He said that he could begin correcting the exterior violations now that the property was vacant.

Board Member Hentzen made a motion to grant sixty days for the exterior of the structure to be brought into minimum code compliance. Board Member Banuelos seconded the motion. The motion was approved by the Board.

8. 1138 North Ash

There was no one present to represent this property.

This one-story frame dwelling has been vacant for at least ten years. Twenty-two by thirty feet in size, the structure has cracking and shifting block basement walls; there is rotted and missing masonite and wood lap siding; the composition roof is deteriorated and is missing shingles.

Board Member Coonrod made a motion to refer the property to the City Council, recommending demolition, with ten days to start demolition and ten days to complete the demolition. Board Member Harder seconded the motion. The motion was approved.

9. 2717 East 10th (garage)

Mr. Bob Allen, representing the mortgage company, appeared on behalf of the property.

This one-story frame accessory structure is about 20 X 20 feet in size, has a deteriorated roof and rotted and missing soffits and fascia. The active case on this structure was commenced on September 13, 2006. There have been two Notices of Improvement issued, and there is an active environmental case on this property.

The previous owner of the property contacted Central Inspection and notified staff that the property was in foreclosure. The taxes are current; there is a 2007 Special Assessment in the amount of \$1,046.57 against the property for weed mowing and lot clean up. There are tall weeds and tree saplings on the premise. No repairs have been made to the structure, and it is secure.

Mr. Allen informed the Board that the property is "in redemption" for ninety days after the foreclosure sale. Until the property is released from redemption, the mortgage company is only permitted to board up the windows and clean up any exterior debris. He anticipated that the structure would be demolished if not redeemed within the allotted time period, which expires on May 27, 2008.

Board Member Banuelos made a motion to allow ninety days for the property to be repaired or demolished, meanwhile maintaining the site in a clean and secure condition. Board Member Hartwell seconded the motion. The motion carried.

10. 1237 North Green

This property was represented by Mr. Charles Revels.

This one-story frame dwelling, 40 X 34 feet in size, has been vacant for approximately three years. The structure has cracking block basement walls; rotted and missing stucco siding; deteriorated front porch; rotted wood trim and framing members; and the wood frame accessory structure is dilapidated.

The active file was started on this property in May of 2007. The 2006 and 2007 taxes are delinquent in the amount of \$578.45. There are no special assessments levied against the property. There is some bulky waste on the property, and there is an active neglected building case on the property. No repairs have been made. The main structure is secure; however, the accessory structure is open and accessible.

Mr. Revels told the Board that he has no interest in keeping the property. Although he inherited the property after the deaths of his parents, Mr. Revels said that he has no desire to take the property to probate, and would prefer to be rid of it.

Board Member Harder made a motion to send the property to the City Council with a recommendation of condemnation, with ten days to start demolition and ten days to complete demolition. Board Member Coonrod seconded the motion. The motion was carried without opposition.

Ms. Legge explained the process of the "ten and ten" procedure for condemnation. Mr. Revels asked if he would still be responsible for the property. Ms. Legge assured him that there would be no cost to him, and that any cost assessment would be assessed to the property and recovered at an eventual tax sale.

Board Member Hentzen questioned whether there was any means in which to request that Sedgwick County expedite the tax foreclosure on this property. Mr. Schroeder said that it was doubtful that anything could be done to rush the process. Board Member Hartwell asked if the structure was worth saving from condemnation. Ms. Legge expressed the opinion that it was quite probably a salvageable building, although it needed extensive work. She added that Neighborhood Improvement Services had a lien on the property for a home improvement loan. Ms. Legge indicated that she was not certain why NIS had not exercised its rights for foreclosure on the mortgage loan. She said that she would check further into the matter.

11. 1242 North Volutsia

No one was present to represent this property.

Twenty by twenty-six feet in size, this one-story frame dwelling has been vacant for at least two years. The foundation is cracking and shifting; there is rotted and missing asbestos siding; and the badly worn composition roof has holes and missing shingles.

Board Member Harder made a motion to send the property to the City Council with a recommendation of condemnation, with ten days to begin wrecking the structure and ten days to complete the demolition. Board Member Banuelos seconded the motion. The motion carried.

12. 2027 North Minnesota

There was no representative for this property in attendance.

Vacant for at least four years, this one-story frame dwelling is approximately 28 X 24 feet in size. The structure

has missing asbestos siding; the composition roof is dilapidated; and the 16 X 20 foot accessory building is deteriorated.

Board Member Coonrod made a motion to refer the property to the City Council, recommending condemnation, with ten days to start the wrecking process and ten days to complete razing the structure. Board Member Hentzen seconded the motion. The motion was approved.

13. 3811 West Taft

No representative was present at the hearing.

A one-story frame dwelling approximately 24 X 27 feet in size, this structure has been vacant for ten months. The concrete foundation is cracking; there is rotted and missing masonite siding; the front and rear porches are dilapidated; and there are rotted fascia and wood trim.

Board Member Willenberg made a motion to refer the property to the City Council with a recommendation of condemnation, with ten days to start demolition and ten days to complete demolition. Board Member Harder seconded the motion. The motion carried, unopposed.

14. 2676 South Jewett

The owner of the property, Robert Snyder, attended the hearing.

This structure is approximately 24 X 65 feet in size. A one-story frame dwelling, it is vacant and open. The block foundation is shifting; there is rotten and missing asbestos siding; the sagging composition roof has holes; the structure has rotted wood trim and framing members.

The active was initiated on August 27, 2001. Numerous violation notices and improvement notices have been issued. The 2005 and 2007 taxes are delinquent in the amount of \$1,418.07, which includes special cost assessments. There are some building materials and tires on the premises; no repairs have been made to the structure. There is an active neglected building case on this building; the structure is secure.

Mr. Snyder explained that he had purchased a block of properties in the Planeview area, and has completed work on the majority of the properties. The property at 2676 S. Jewett was sold to an individual on contract (also present at the hearing) who anticipated that the new windows, doors and siding should be completed within ninety days.

Board Member Hentzen made a motion to allow ninety days for the exterior to be brought into compliance, maintaining the property in a clean and secure condition in the interim. Board Member Hartwell seconded the motion. The motion carried.

15. 3429 East Roseberry

Robert Snyder, owner, was present on behalf of this property.

This one-story frame dwelling approximately 24 X 84 feet. Vacant and open, this structure has a deteriorated and fire-damaged foundation; the asbestos siding is cracking and also fire-damaged; the composition roof is sagging and has holes and missing shingles; there is rotted wood trim; there are fire-damaged wood framing members.

Due to the fire, an active file was started on this structure on December 28, 2007. The 2007 taxes are delinquent in the amount of \$73.13. There is an active neglected building case on this property; the premise condition is fair; there have been no repairs made; the structure is secure.

Providing a letter from his insurance company, Mr. Snyder explained that the cause of the fire was arson, and the ongoing investigation prevented any work from being commenced. Once he has permission to begin the repairs, Mr. Snyder said he intended to raze the third unit of the triplex, converting the structure into a duplex. Once that is accomplished, he said that new siding would be installed. Mr. Snyder voiced his intention to sell the property on contract. He said that the fire-damaged unit should be removed in approximately seven days, and the remainder of the repairs should be completed within sixty days.

Board Member Coonrod made a motion to allow sixty days for the fire-damaged unit to be removed and the exterior repairs to be completed, maintaining the site in a clean and secure condition. Board Member Harder seconded the motion.

Board Member Hentzen asked whether a portion of the insurance monies were being held in escrow by the City. Ms. Legge confirmed that once the insurance company had made a payment to Mr. Snyder, fifteen percent of the funds would be held in the escrow account until the repairs are made to the structure. Once the repairs are complete, the funds, including accrued interest, would be returned to Mr. Snyder.

Chairman Murabito restated the motion. The motion carried.

Unfit for Habitation case:

1623 N. Arkansas

This item was tabled until the next regularly scheduled hearing due to the absence of Ms. Sharon Dickgrafe, City Attorney, legal advisor to the Board.

5. Overview of proposed ADA Parking Lot Striper Ordinance.

Jay Hinkel, Deputy City Attorney for the City of Wichita Law Department presented the proposed ordinance addressing the striping of parking lots in the City of Wichita to assure conformance with ADA standards.

Mr. Hinkel explained that the City of Wichita is making major systemic changes for ADA improvements, which began with a lawsuit filed by the Independent Living Center in 2005. The City decided to use this lawsuit as a springboard to make other significant changes in the ADA compliance as needed within the City of Wichita. The Federal Department of Justice has embarked, since that time, on major enforcement action in municipalities across the country. The Wichita City Council has determined that it was in the City's best interest to take a proactive measure toward ADA compliance in order to avoid the enforcement requirements that are being placed upon other communities by the Federal Government. One aspect of that is the licensing and regulation of contractors for re-striping parking lots. Although no permit would be required to do the re-striping, a contractor would be required, by this ordinance, to be licensed in order to undertake this type of activity. This licensing provision is required in the settlement agreement that the City signed with Independent Living Center in the 2005 lawsuit.

In the settlement, the City successfully argued that the City in general, Central Inspection in particular, do not have the staff necessary to police or supervise the resurfacing or re-striping of public parking lots in the same manner as it does for inspections with building permits. This ordinance is actually a "complaint driven" regulation, rather than an "inspection driven" regulation. The intent is to obtain accessibility through conformance, and to that end, the ordinance is structured with different levels: intervention and prevention through the City's ADA Coordinator and the Superintendent of Central Inspection; and, if action at those levels fail, review by the Board of Code Standards and Appeals. The ordinance is drafted to parrot language in Title 18, Chapter 12. It uses the same structure and identical language as used for other various contractor licensing through the City.

Mr. Hinkel told the Board that he would like its input on the ordinance, and any suggestions for improvement of the ordinance as the Board determined necessary.

Board Member Hartwell inquired whether re-striping would require a permit according to the proposed ordinance. Mr. Hinkel said that as a general regulation ordinance, a permit would be required, effective July 1, 2008.

Board Member Coonrod asked if the permit would be needed if the placement of the stripes were exactly as they had been prior to the re-striping. Mr. Hinkel responded that a permit, issued annually, would be necessary. He also explained that the reasoning was to prevent instances as had occurred in the past where parking lots had been re-striped and the stalls were shifted, or a handicapped parking sign was not reinstalled at completion, eliminating the ADA compliance. Further, Mr. Hinkel stated, the permit would provide a mechanism under which those individuals who are engaged in the re-striping business can be held accountable for their work. If a building owner wanted to use his own laborer to re-stripe the parking lot, Board Member Coonrod inquired whether the owner would then be required to hire a contractor and get a permit, rather than doing the re-striping through his own company.

Mr. Schroeder interjected a clarification regarding the terminology being used in the proposed ordinance. The permit, Mr. Schroeder defined, would actually be the license issued to the re-striping contractor. No permits would be obtained for the actual re-striping work. Board Member Coonrod then asked if, under the conditions previously stated, a license would have to be obtained for a building owner to use his own laborer for re-striping that building owner's parking lot. Mr. Schroeder affirmed that it would be necessary.

The question regarding the responsibility for parking lot striping on newly constructed buildings was posed by Board Member Hentzen. Mr. Hinkel replied that the general contractor holding the building permit was considered to be the responsible party. Board Member Hentzen asked if a licensed striping contractor would be required to do the striping for new construction. Mr. Hinkel confirmed that a licensed striping contractor would have to be contracted for the striping of new construction.

Chairman Murabito asked the Board to show support of the proposed ordinance by a show of hands. The Board unanimously declined to support the proposed ordinance.

Mr. Schroeder requested that the Board comment on its rejection of the proposed ordinance, reminding the Board that the City was required to enact the provisions of the ordinance as part of the settlement of the lawsuit with Independent Living Center.

Board Member Coonrod voiced his opinion that he would have no problem if the City required a review of plans for any alterations or changes to the parking lot; however, he felt that requiring a licensed striping contractor for new construction would be too restrictive.

Mr. Schroeder asked Mr. Hinkel if he thought there might be an issue with holding the general contractor accountable for the striping of new parking lots, rather than requiring a licensed striping contractor to be hired for the work.

The objective of the proposed ordinance, Mr. Hinkel explained, was to ensure accountability for ADA compliance. An exception to allow a general contractor to bear responsibility for correct ADA striping on new construction, without the requirement of hiring a licensed striping contractor, would be within the intent of the proposed ordinance. Additionally, Mr. Hinkel said, he would be willing to suggest that the exception be extended to a building owner who wished to take responsibility for ADA compliance in having his parking lot re-striped by someone other than a licensed striping contractor.

Board Member Hentzen commented that he understood that the general contractor and/or building owner were currently held responsible for ADA compliance on parking lots. The purpose of enacting an ordinance, Mr. Hinkel expounded, was to provide a remedy for the City to step in and require ADA compliance, through court action if necessary. Presently, the City can only advise an aggrieved individual to take civil action against a business owner whose parking lot does not comply with ADA regulations. The City of Wichita is under court order to enact some type of ordinance to regulate ADA conformance.

Mr. Hinkel told the Board that he was willing to submit the Board's suggested exceptions to the parties involved in the litigation. Board Member Coonrod questioned the need for a licensing provision if responsibility was placed on the general contractor or building owner. Mr. Hinkel said that he would dispense with the verbiage

requiring a licensed striping contractor and word the ordinance to place the obligation for ADA compliance on the general contractor for new construction and the building owner for existing properties. Should the parties involved reject the exceptions, Mr. Hinkel told the Board that he would notify the City Council that the Board of Code Standards and Appeals was not in favor of the proposed ordinance.

With no other business to conduct, Board Member Hartwell made a motion to adjourn the meeting. Board Member Willenberg seconded the motion. The motion was approved.

The meeting adjourned at 2:45 p.m.